IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1006 OF 2005

IN

EXECUTION APPLICATION NO.183 OF 2004

IN

SUMMARY SUIT NO.1510 OF 2002

M/s.G.M.Breweries Ltd. ...Plaintiffs

Versus

M/s.Siddhivinayak Builders & Ors. ...Defendants

And

Aruna Harishchandra Tandel ...Intervenor/Obstruc./ Respondent

.....

Ms.Sumedha Rao for Applicant/Intervenor.

Mr.O.A.Das for Plaintiffs.

Mr.G.T.Mestha, Commissioner for Taking Accounts is present.

.....

CORAM: A.M.KHANWILKAR, J.

SEPTEMBER 20, 2005.

P.C.

1. Heard Counsel for the parties. Perused

the pleadings.

2. This Chamber Summons is taken out in respect of Flat bearing No.B-202 in Venus Building, situated at Chikoowadi, Boriwali (West), Mumbai - 400 092 for raising of attachment and setting aside the order as passed.

3. The Counsel for the Judgment Creditors fairly submits that there are documents on record to establish that the Applicant has purchased Flat No.B-202 in Venus Building for consideration. The Agreement is a registered Agreement. The Applicant has also been put in possession of the said flat before the warrant of attachment was issued on 7th July 2004. However, according to the Judgment Creditors, the Applicant has not paid entire consideration in terms of Agreement dated 20th November 2002. He submits that the Applicant will have to pay balance amount of Rs.12,750/- (Rupees Twelve Thousand Seven Hundred Fifty) and as that payment is outstanding, Court may direct the Applicants to deposit the said amount in this Court instead of paying it directly to the Judgment

Debtors.

4. Counsel for the Applicant, however, is disputing that any amount is outstanding. It is submitted that the fact that the possession receipt has been issued in favour of the Applicant, presupposes that entire consideration under the Agreement has been paid. Learned Counsel, however, submits that instead of entering into this controversy, which may require the Applicant to adduce evidence to substantiate his claim, the Applicant has no objection to deposit sum of Rs.12,750/- (Rupees Twelve Thousand Seven Hundred Fifty) in this Court, without prejudice to his rights and contentions.

5. On the basis of this assurance, Chamber Summons is allowed to the extent of raising of attachment in respect of Flat No.B-202 in Venus Building.

6. The Applicant shall, deposit amount of Rs.12,750/- (Rupees Twelve Thousand Seven Hundred Fifty) in this Court within three weeks from today.

A.M.KHANWILKAR, J.